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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,796	09/22/2000	Wayne R. Curtis	99-2175	9738

7590 07/25/2002

Intellectual Property Office
The Pennsylvania State University
113 Technology Center
University Park, PA 16802

EXAMINER

FOX, DAVID T

ART UNIT	PAPER NUMBER
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1638

DATE MAILED: 07/25/2002

10

Please find below and/or attached an Office communication concerning this application or proceeding.



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Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☐ is extended to run _____ or continues to run _____ from the date of the final rejection
- b) ☒ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 7/10/12 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☒ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:

- a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
- b. ☒ They raise new issues that would require further consideration and/or search. (See Note).
- c. ☒ They raise the issue of new matter. (See Note).
- d. ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

New issues: 112 1st/2nd and 103 for "conductivity, refractive index, osmolarity, calcium level... or a combination" in claim 1. New matter: basis in spec for above unclear. Failure to simplify: Error in claim 1, part (ii), line 3, "5" before "to"; and in claim 3, line 1, "3" after "issue".

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☒ Upon the filing an appeal, the proposed amendment ☐ will be entered ☒ will not be entered and the status of the claims will be as follows:

Claims allowed: _____
Claims objected to: _____
Claims rejected: 1-20

However;

☐ Applicant's response has overcome the following rejection(s): _____

DAVID T. FOX
PRIMARY EXAMINER
GROUP ~~100~~ 1038

Accepted

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because *Abstracts presented to overcome 112 1st are insufficient evidence - can't determine whether techniques used which weren't in spec; also text of Abstracts incomplete*

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented. *Arguments re 103 duplicative of those earlier presented, and dependent upon*

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner. *non-entered amendment*
☒ Other *Art Unit change to 1038, Examiner David Fox*